

## CALIFORNIA PRIVACY LEGISLATION

The California Legislature considers many bills on privacy issues each year. This page summarizes some of the currently pending or recently enacted bills, as of the date noted at the bottom of the page. The listing of these bills does not imply a position of support or opposition to any of them. To get more information on the bills and their status, click on the link below and enter the bill number.

[Current Privacy Legislation  
www.leginfo.ca.gov/bilinfo.html](http://www.leginfo.ca.gov/bilinfo.html)

### 2007 Pending Legislation

#### **AB 9 (Huff) – Voter Identification**

This bill would require any eligible citizen to present photo identification before receiving a ballot, and would specify six forms of currently valid photo identification that may be used for this purpose. This bill would also make a violation or attempted violation of these provisions a felony.

#### **AB 164 (Smyth) – Parental Access to Child’s Records**

This bill would provide that a parent could not be denied access to a child’s medical, dental, or school records because he or she does not have physical custody of the child, with some exceptions.

#### **AB 326 (Benoit) – Criminal Identity Theft and Phishing**

This bill would provide that any person who commits any act that might make a person who is falsely impersonated liable to arrest or a criminal charge, is subject to a fine and/or jail/prison term. It would also provide that engaging in “unlawful phishing,” as defined, is a crime punishable by a fine not exceeding \$1,000, imprisonment in a county jail for a period not exceeding one year, or both, or by a fine not exceeding \$10,000, imprisonment in the state prison, or both.

#### **AB 372 (Salas) – Protection of Customer Records: Penalty**

This bill would add a civil penalty in the amount of up to \$2,500 upon any business that violates, proposes to violate, or has violated any specific personal information protections to be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General, or by any district attorney, any county counsel, or any city attorney of a city and/or county.

**AB 436 (Salas) – Health Information Privacy**

This bill would further prohibit any entity subject to HIPAA from disclosing a patient’s medical information without first receiving that patient’s written authorization.

**AB 512 (Lieber) – Security Breach Notification**

This bill would add private medical and health care records to the definition of “personal information” in the laws requiring a State agency, or a person or business that conducts business in California, as specified, to disclose a breach of the security of a person’s unencrypted computerized data. The bill would also repeal duplicate provisions of the California law on notice of security breach.

**AB 555 (Nakanishi) – Electronic Medical Records**

This bill would express the Legislature’s intent to require the Medical Board of California to work with interested parties to develop an electronic system that would allow any physician and surgeon in this state to access the patient’s medical records needed to treat that patient.

**AB 569 (Portantino) - Wiretaps**

Existing law regulating government interception of specific electronic communications remains in effect until January 1, 2008. This bill would extend the effective date to January 1, 2012.

**AB 607 (Brownley) – Locking Mail Boxes in Residential Hotels**

This bill would, 1.) after July 1, 2008, require all residential hotels to provide each residential unit with a locking mail receptacle, acceptable for mail delivery by the United States Post Office and, 2.) after, July 1, 2008, make a failure to comply with this requirement a basis for considering a residential unit untenable. This bill also authorizes circumstances for cities and/or counties to make and enforce ordinances that provide greater protections and increased penalties for a residential hotel’s failure to comply with this law.

**AB 703 (Ruskin) – Social Security Numbers**

This bill would prohibit a person or entity from using a Social Security number as an identifier, except as required by federal or state law. The bill would also require that records containing Social Security numbers be discarded or destroyed in a specified manner, and would require the encryption or locked storage of records containing Social Security numbers.

**AB 714 (Maze) – Adoption Records**

This bill would provide that the Department of Social Services and any licensed adoption agency may furnish information relating to a child who has been previously adopted and who is in the custody of the department or an agency, to a potential foster parent or another potential caretaker if it is believed the child’s welfare will be promoted thereby. The bill would provide that, for the purposes of these provisions, a potential caretaker includes a member of the child’s birth family, including a member of the birth family who is not related to the child by blood, if specified circumstances exist.

**AB 721 (Maze) – Legislator Requests for Public Records**

This bill would provide that, notwithstanding any other provision of the California Public Records Act, when a Member of the Legislature requests a public record from a State agency, the agency must make the determination and notification required by these provisions no later than three business days after receipt of the request, instead of the current 10 day requirement.

**AB 875 (Davis) – Safe Communities Through Technology**

This bill would declare the intent of the Legislature to enact legislation to establish in state government the Safe Communities Through Technology Program, which will provide funds to cities for the purpose of developing electronic surveillance of streets in high-crime neighborhoods.

**AB 1042 (Spitzer) – Electronic Filing of Property Tax Assessment Changes**

This bill would authorize the clerk of a county board of equalization to accept electronically filed applications for a changed assessment containing an authenticated electronic signature if that application meets certain criteria.

**AB 1057 (Beall) – Advisory Committee on Personal Health Records**

This bill would require that the California Health and Human Services Agency establish an advisory committee on electronic personal health records to assist the Agency in providing a report to the Legislature by January 1, 2009, recommending a strategic plan for the use of electronic personal records. Implementation of the plan would be contingent upon enactment of subsequent statutory authorization. The bill would set forth the other responsibilities of the Agency, including, among others, supporting research.

**AB 1168 (Jones) – SSNs in Higher Education, Public Records, FTB**

This bill would make several provisions intended to prevent the inappropriate disclosure of Social Security numbers. 1.) It would require, unless prohibited by federal law, all colleges and universities located in this state, at both the campus and system levels, to truncate Social Security numbers in their electronic records so that no more than the last four digits are displayed. The bill would authorize the Attorney General, or any affected resident of this state, to bring a civil action to enforce this provision. 2.) It would also provide that, notwithstanding the California Public Records Act, a local agency may not disclose to the public any record that is required to be open to the public by any provision of law if that record displays more than the last four digits of any Social Security number. 3.) It would provide that unless prohibited by state or federal law, the Franchise Tax Board must truncate Social Security numbers on lien abstracts and any other records created by the board that are disclosable under the California Public Records Act so that no more than the last four digits of any Social Security number are displayed.

**AB 1178 (Hernandez) – Disclosure of Psychotherapy Records**

A psychotherapist who has reasonable cause to believe that a patient is a danger to himself or herself or to the person or property of another, and that disclosure is necessary to prevent the threatened danger, would be exempted from the provisions of the Confidentiality of Medical Information Act that prohibit disclosure of information about the patient.

**AB 1229 (Carter) – Possession of ATM Card-Trapping Device**

This bill would make it a misdemeanor to *possess* an ATM card-trapping device, punishable by up to one year imprisonment in the county or a fine of up to \$1,000.

**AB 1298 (Jones) – Medical Information Confidentiality, Security Freeze, Security Breach Notification**

This bill would amend several existing privacy laws. 1.) It would apply prohibitions of the Confidentiality of Medical Information Act to any corporation organized for the purpose of maintaining medical information for treatment or diagnosis. 2.) It would, regardless of the existence of a security freeze, permit a consumer reporting agency to disclose public record information lawfully obtained from an open public record to the extent otherwise permitted by law. The bill would specify that these provisions do not prohibit the consumer reporting agency from electing to apply a valid security freeze to the entire contents of a credit report. 3.) It would add medical information and health insurance information to the data elements that, when combined with the individual's name, would constitute personal information that would require disclosure when acquired, or believed to be acquired, by an unauthorized person due to a security breach.

**AB 1433 (Huff) – Driver's Licenses and REAL ID Act**

This bill would make various changes in Vehicle Code provisions regarding the issuance of driver's licenses to conform to the federal REAL ID Act of 2005.

**AB 1570 (Mendoza) – Identity Theft and Credit Applications**

This bill would require the Department of Financial Institutions to prepare an analysis and report to the Legislature by January 1, 2009, on the process by which consumer identities are verified on credit applications, specifically through the use of 3rd parties, for the purpose of uncovering potential identity theft issues connected with this process.

**AB 1587 (De La Torre) – Medical Information Confidentiality**

This bill would exclude from the definition of marketing, within the Confidentiality of Medical Information Act, a written communication or message provided to a pharmacy patient by a pharmacist or pharmacy personnel.

**AB 1677 (C. Calderon) – Fraudulent Online Transaction**

This bill would declare the intent of the Legislature to enact legislation requiring an Internet service provider to contact persons who transfer large sums of money by recorded telephone call in order to confirm a high value transaction over the Internet, and to impose penalties on Internet service providers who fail to meet this requirement and on persons who confirm fraudulent transactions.

**SB 28 (Simitian) – Use of RFID on Driver’s Licenses**

This bill would prohibit the Department of Motor Vehicles, from issuing, renewing, duplicating, or replacing a driver’s license or identification card, if the license or card uses radio waves to either transmit personal information remotely or to enable personal information to be read from the license or card remotely. This bill would provide that its provisions remain in effect until January 1, 2011.

**SB 29 (Simitian) – Use of RFID for Monitoring Students**

This bill would prohibit a public school, school district, and county office of education from issuing any device to a pupil that uses radio waves to transmit personal information, as defined, or to enable personal information to be viewed remotely for the purposes of recording the attendance of a pupil at school, establishing or tracking the location of a pupil on school grounds, or both. The bill would repeal these provisions on January 1, 2011.

**SB 30 (Simitian) – Use of RFID in Identifications Documents**

This bill would enact the Identity Information Protection Act of 2007. Until December 31, 2013, or as otherwise specified, the Act would require identification documents, as defined and with specified exceptions, that are created, mandated, purchased, or issued by various public entities that use radio waves to transmit data, or to enable data to be read remotely, to meet specified requirements. The bill would provide that a person or entity that knowingly discloses, or causes to be disclosed, operational system keys, as described, will be punished by imprisonment in a county jail for up to one year, a fine of not more than \$5,000, or both.

**SB 31 (Simitian) – Remote Reading of RFID on Identification Documents**

This bill would provide that a person or entity that intentionally remotely reads or attempts to remotely read a person’s identification document using radio waves without the person’s knowledge and prior consent will be punished by imprisonment in a county jail for up to one year, a fine of not more than \$5,000, or both.

**SB 60 (Cedillo) – Driver’s Licenses and REAL ID Act**

This bill would require the Department of Motor Vehicles to issue driver’s licenses and identification cards that are in compliance with specific requirements of the federal REAL ID Act of 2005.

**SB 129 (Kuehl) – Annoying Electronic Communications**

This bill would make it a misdemeanor punishable by a maximum of 6 months in the county jail or a \$1,000 fine, or both, for a person to make telephone calls or contact with an electronic communication device with the intent to annoy another person at *any* place.

**SB 216 (Cox) – Social Security Numbers on Judgments**

This bill would delete the requirement that the abstracts of a judgment or decree requiring the payment of money, or ordering a party to pay spousal, child, or family support, contain the Social Security number of the judgment debtor or party ordered to pay support, and instead require only the last 4 digits of that person’s Social Security number.

**SB 328 (Corbett) – Disclosure of Telephone Records**

This bill would include a telephone calling pattern record or list in the definition of “personal information” in the laws requiring, among other things, notification of a security breach. The bill would also prohibit any person from obtaining or attempting to obtain, or causing or attempting to cause the disclosure of, personal information about a customer or employee contained in the records of a business through specified methods, such as by making false, fictitious, or fraudulent statements or representations, with specified exceptions.

**SB 362 (Simitian) – Subcutaneous Implantation of Identification Devices**

This bill would prohibit a person from requiring any other individual to undergo the subcutaneous implanting of an identification device. It would authorize the Attorney General or an aggrieved party to bring an action against a violator for injunctive relief or for the assessment of civil penalties to be determined by the court. The bill would grant a prevailing plaintiff reasonable attorney’s fees and costs.

**SB 364 (Simitian) – Security Breach Notification**

In addition to the other substitute notice provisions, this bill would allow a state agency that experiences a breach of unencrypted personal information to use the substitute notice procedure through mass media and Web posting, rather than individual notification, if the agency demonstrates that the cost of disclosure would exceed \$100,000, rather than the current \$250,000 threshold.

**SB 388 (Corbett) – Notice of RFID**

This bill would require any person or entity that sells, furnishes, or otherwise issues a card or other item containing a radio frequency identification tag that may be scanned for personally identifiable information to provide specified information to the recipient. The bill would authorize an aggrieved party to bring an action against a violator for nominal or actual damages.

**SB 449 (Aanestad) – Privacy of Sex Offense Victims**

This bill would expand the category of sex offense crime victims whose names and addresses are not subject to disclosure under the California Public Records Act.

**SB 471 (Margett) – Certified Copies of Birth or Death Records**

Existing law provides that the State Registrar, local registrar, or county recorder may provide a certified copy of a birth or death record to an authorized person, as defined, who submits a statement sworn under penalty of perjury that the requester is an authorized person. Effective July 1, responsibility for the administration of the above-mentioned provisions will be transferred to the State Public Health Officer. This bill would, in addition, require any person who requests, in person, a certified copy of a birth or death certificate to provide the official with valid identification.

**SB 524 (Corbett) – Voter Records Confidentiality**

Existing law, until January 1, 2008, authorizes any person who is granted confidentiality from the California Public Records Act pursuant to the Address Confidentiality for Victims of Domestic Violence, Sexual Assault, and Stalking program and/or the Address Confidentiality for Reproductive Health Care Services Providers, Employees, Volunteers, and Patients program to file a new affidavit of voter registration or re-registration and be considered an absentee voter for subsequent elections until the county elections official is notified otherwise by the Secretary of State or the voter. This bill would extend the operation of this provision until January 1, 2013.

**SB 596 (Harman) – Security Safeguards for Computerized Payment Systems**

This bill would require a computerized payment system sold as new in this state to include antisniffer protection that would protect data traveling through the system and any directions necessary for use of the antisniffer protection.

**SB 612 (Simitian) – Identity Theft Jurisdiction**

Existing law provides that the jurisdiction of a criminal action for unauthorized use of personal identifying information includes the county in which the theft of the information occurred and the county in which the information was used for an illegal purpose. This bill would expand these provisions to include unauthorized retention and transfer of personal identifying information, as defined. This bill would add the county in which the victim resided at the time the offense was committed to the jurisdictions in which a criminal action may be brought for commission of these crimes.

**SB 618 (Alquist) – Electronic State Records**

This bill would require each State agency, no later than January 1, 2010, to maintain all of its records in an electronic format and would apply this requirement to any document or writing containing information relating to the conduct of the people's business that is prepared, owned, used, or retained by any State agency that is not already in an electronic format.

**SB 644 (Correa) – Social Security Numbers in Judgment Abstracts**

This bill would prevent publication of the Social Security number of the judgment debtor, party ordered to pay support, or assessee on forms of 1.) an abstract of a judgment or decree requiring the payment of money, 2.) notice of support arrearage, 3.) abstract of a judgment ordering a party to pay spousal, child, or family support, and 4.) specified liens on unsecured property for delinquent taxes. Instead, the bill would require only the last 4 digits of that person's Social Security number. The bill would require the Judicial Council to revise the abstract of judgment form to conform to the above requirements by April 1, 2008, and would also require every local child support agency to implement and comply with those requirements, as specified.

**SB 741 (Ackerman) – Social Security Numbers on School Mailings**

This bill would encourage school districts and schools to omit the Social Security number and birth date of a pupil from materials sent by the school district or school to a pupil's residence, subject to exemptions under certain circumstances.

**SB 751 (Cogdill) – Identity Theft Jurisdiction**

This bill would expand the jurisdiction of a criminal action for unauthorized use of another’s personal identifying information to include the county where the victim resides, regardless of whether the personal information was used in that county.

**SB 787 (Battin) – Computer Crime**

This bill would make it a punishable public offense to knowingly and without permission use automated computer software to circumvent, defeat, defraud, or deceive a computer program that is designed to validate proper transaction flow and access to goods or services by computer users. It would also establish minimum compensatory damages for a violation.

**SB 904 (Battin) – Redaction of Personal Information in Veterans’ Public Records**

This bill would require a county recorder, upon the request of a veteran, to redact specific information from public documents and, would authorize the county recorder to charge a reasonable fee for the cost of redacting this information.

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